

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



June 13, 1990

ALL-COUNTY LETTER NO. 90-48

TO: ALL-COUNTY WELFARE DIRECTORS

SUBJECT: RECORDS RETENTION, IN-HOME SUPPORTIVE SERVICES PROGRAM:
MARSHALL v. McMAHON; MILLER v. WOODS.

REFERENCE: ACIN 1-37-84, dated April 17, 1984 and ACL 88-110,
dated August 30, 1988.

The purpose of this All-County Letter is: 1) to inform the Counties of a recent decision in the court case Marshall v. McMahon (Marshall); 2) to inform Counties of records retention requirements in the Marshall case; and 3) to remind the Counties of the records retention requirements relating to Miller v. Woods.

Marshall v. McMahon is a class-action suit filed in the Superior Court of California, San Diego County, on May 3, 1989. The plaintiffs contend that the In-Home Supportive Services (IHSS) Program should be providing the service of protective supervision to all eligible recipients in need of this service for reasons of physical impairment as well as for reasons of mental impairment.

On February 21, 1990, the court determined that the suit may proceed as a class action on behalf of the following defined class of persons:

"All applicants for or recipients of In-Home Supportive Services and their providers, who have been since March 31, 1986 or will be denied protective supervision services solely because their need arises from a physical impairment."

Because of the broad nature of the issues in the Marshall case, Counties are instructed to retain all IHSS case files, applications, denials or other records dating back to March 31, 1986 and continuing into the future until further notice.

The issues in Marshall are scheduled to be heard by the court later this year. The State Department of Social Services will continue to keep Counties informed of the progress of Marshall.

In Miller v. Woods (Miller), Counties were advised in All-County Information Notice No. I-37-84, dated April 17, 1984 and again in All-County Letter No. 88-110, dated August 30, 1988, to retain all Miller-related cases beyond the normal three-year retention period. It now appears that Miller will be further implemented at some time in the future. This will result in the delay of the State monitoring of Miller cases. Counties are therefore instructed to retain all Miller cases and documentation until further notice. This includes any claims which you may have received after the March 9, 1989 deadline. In addition, because of the complexities of implementation of the Miller retroactive claims process, Counties are instructed to retain all existing IHSS case files, applications, denials or other records dating back to April 1, 1979 and continuing into the future until further notice.

Any questions regarding the retention of Miller documents should be directed to Ms. Karen Duminy, Adult Services Bureau, at (916) 322-2443. Questions relating to Marshall should be directed to Mr. Fred Bremerman, Adult Services Bureau, at (916) 323-3409.

Sincerely,



LOREN D. SUTER
Deputy Director
Adult and Family Services

cc: CWDA